

1 GILBERT R. SEROTA (No. 75305)
Email: gserota@howardrice.com
2 MARK A. SHEFT (No. 183732)
Email: msheft@howardrice.com
3 MICHAEL L. GALLO (No. 220552)
Email: mgallo@howardrice.com
4 HOWARD RICE NEMEROVSKI CANADY
FALK & RABKIN
5 A Professional Corporation
Three Embarcadero Center, 7th Floor
6 San Francisco, California 94111-4024
Telephone: 415/434-1600
7 Facsimile: 415/217-5910

8 Attorneys for Plaintiffs
THOMAS WEISEL PARTNERS LLC and
9 THOMAS WEISEL INTERNATIONAL
PRIVATE LIMITED
10

11 UNITED STATES DISTRICT COURT
12 NORTHERN DISTRICT OF CALIFORNIA
13 SAN FRANCISCO DIVISION
14

HOWARD
RICE
NEMEROVSKI
CANADY
FALK
& RABKIN
A Professional Corporation

15 THOMAS WEISEL PARTNERS LLC, a
Delaware limited liability company, and
16 THOMAS WEISEL INTERNATIONAL
PRIVATE LIMITED, an Indian company,
17

18 Plaintiffs,

19 v.

20 BNP PARIBAS, a French corporation, BNP
PARIBAS SECURITIES (ASIA) LIMITED,
21 a Hong Kong company, and PRAVEEN
CHAKRAVARTY, an individual,
22

23 Defendants.
24
25
26
27
28

No. CV-07-06198 MHP

Action Filed: December 6, 2007

PLAINTIFFS AND BNP PARIBAS
DEFENDANTS' STIPULATION AND
[PROPOSED] ORDER RE
JURISDICTIONAL DISCOVERY AND
VACATING HEARING DATE
(Civil L. R. 6-2)

1 WHEREAS, Plaintiffs Thomas Weisel Partners LLC and Thomas Weisel International
 2 Private Limited (collectively “TWP”) and Defendants BNP Paribas and BNP Paribas
 3 Securities (Asia) Limited (collectively “the BNP Paribas Defendants”; along with TWP, “the
 4 Parties”) stipulated—and the Court later ordered—that the Court would hear and resolve the
 5 BNP Paribas Defendants’ motion to dismiss for lack of personal jurisdiction and forum non
 6 conveniens (the “Jurisdiction Motion”) before considering challenges to the sufficiency of
 7 the claims alleged in the First Amended Complaint (*see* Docket Entry No. 13);

8 WHEREAS, the Stipulation and Order (“Stipulation”) provides that “If TWP
 9 undertakes jurisdictional discovery—whether by consent or leave of Court—the parties will
 10 meet and confer in good faith to consider whether it is necessary to revise or extend the
 11 briefing and hearing schedule set forth above”;

12 WHEREAS, on March 7, 2008, the BNP Paribas Defendants filed and served their
 13 Jurisdiction Motion;

14 WHEREAS, the Parties now have met and conferred to discuss (i) TWP’s need for
 15 jurisdictional discovery, (ii) whether such discovery would proceed by consent and (iii) the
 16 effect undertaking such discovery would have on the schedule outlined in the Stipulation;

17 NOW, THEREFORE, the Parties HEREBY STIPULATE AND AGREE as follows:

18 1. Discovery directed to the merits of the issues in the Complaint will be deferred
 19 until the Court decides the Jurisdiction Motion.

20 2. The Parties may undertake discovery limited to issues raised by the BNP Paribas
 21 Defendants’ Jurisdiction Motion (“Jurisdictional Discovery”). The Parties’ initial
 22 Jurisdictional Discovery shall be limited to requests for documents and interrogatories (the
 23 “Initial Jurisdictional Discovery”) to be served by March 24, 2008. After receipt of
 24 responses to the Initial Jurisdictional Discovery, TWP may seek to take up to two
 25 depositions. If TWP deposes a witness during the Jurisdictional Discovery period, the BNP
 26 Paribas Defendants may seek to take one deposition during the same period. Those
 27 depositions may not be necessary, and the BNP Paribas Defendants are likely to object to
 28 such depositions. The Parties will discuss the need for such depositions within the period of

1 Jurisdictional Discovery and seek to reach an agreement that obviates the need for raising
2 this issue with the Court. The Parties may not undertake additional Jurisdictional Discovery
3 without mutual consent and/or leave of Court.

4 3. The Parties retain the right to object to any particular Jurisdictional Discovery
5 request. The Parties shall meet and confer promptly and in good faith to resolve issues and
6 objections that arise concerning Jurisdictional Discovery, and reserve their rights to litigate
7 unresolved issues and objections. The Parties agree that any motions related to issues and
8 objections arising during Jurisdictional Discovery may be heard on shortened time.

9 4. The hearing date of the Jurisdiction Motion, currently noticed for April 28, 2008,
10 shall be taken off calendar to allow for the completion of Jurisdictional Discovery. After the
11 Parties have resolved any discovery disputes and completed such discovery, they will meet
12 and confer to discuss a schedule for the balance of the briefing and propose to the Court a
13 mutually acceptable briefing and hearing date on the Jurisdiction Motion. In all events,
14 absent the Parties' mutual consent or leave of Court, the hearing on the Jurisdiction Motion
15 will occur no later than July 28, 2008.

16 5. The Parties will not be required to serve Initial Disclosures until after the Court
17 decides the Jurisdiction Motion, and will meet and confer at that time regarding an agreeable
18 disclosure deadline.

19 6. TWP believes the Parties and the Court would benefit from holding a Case
20 Management Conference on March 31, 2008, as provided in the December 28, 2007 Clerk's
21 Notice and the Stipulation. TWP also believes the Parties' Joint Case Management
22 Conference Statement, which would be filed on March 21 (as previously ordered), and this
23 stipulation and [proposed] order should constitute the Discovery Plan that is due on March
24 24, 2008.

25 7. Because all discovery directed to the merits of the issues in the Complaint will be
26 deferred until after the Court decides the Jurisdiction Motion, the BNP Paribas Defendants
27 prefer that the Court postpone the Case Management Conference (and related deadlines)
28 until after it decides the Jurisdiction Motion.

1 8. All other deadlines and obligations set forth in the Stipulation will remain in
2 effect.

3 IT IS SO STIPULATED AND AGREED:

4
5 Dated: March 20, 2008

GILBERT R. SEROTA
MARK A. SHEFT
MICHAEL L. GALLO
HOWARD RICE NEMEROVSKI CANADY
FALK & RABKIN
A Professional Corporation

9 By: /s/
10 GILBERT R. SEROTA

11 Attorneys for Plaintiffs
12 THOMAS WEISEL PARTNERS LLC
13 and THOMAS WEISEL
14 INTERNATIONAL PRIVATE
15 LIMITED

16
17
18
19
20
21
22
23
24
25
26
27
28
Dated: March , 2008

JOSEPH E. ADDIEGO, III
DAVIS WRIGHT TREMAINE LLP

LEIV BLAD
CLIFFORD CHANCE

By: JOSEPH E. ADDIEGO, III

Attorneys for Defendants BNP
PARIBAS and BNP PARIBAS
SECURITIES (ASIA) LIMITED

HOWARD
RICE
NEMEROVSKI
CANADY
FALK
& RABKIN
A Professional Corporation

1 PURSUANT TO STIPULATION, IT IS SO ORDERED. ADDITIONALLY,
2 THE CASE MANAGEMENT CONFERENCE WILL PROCEED ON MARCH 31,
3 2008 AT 4:00 P.M., AS SET FORTH IN THE DECEMBER 28, 2007 CLERK'S NOTICE
4 AND THE PRIOR STIPULATION AND ORDER.

5 **OR**

6 THE MARCH 31, 2008 CASE MANAGEMENT CONFERENCE IS CONTINUED
7 UNTIL A DATE TO BE SET AFTER THE COURT DECIDES THE JURISDICTION
8 MOTION.

9 Dated: March ____, 2008
10

11 _____
12 Judge Marilyn Hall Patel
United States District Judge

13 HOWARD
14 RICE
NEMEROVSKI
CANADY
FALK
& RABKIN
15 A Professional Corporation
16
17
18
19
20
21
22
23
24
25
26
27
28